

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

In the Matter of)	Case No.: 13-C-10324-RAH
)	
ANDREW WILLIAM QUINN,)	
)	DECISION AND ORDER OF
Member No. 209654,)	INVOLUNTARY INACTIVE
)	ENROLLMENT
<u>A Member of the State Bar.</u>)	

Introduction¹

In 2012, respondent Andrew William Quinn invaded his 18-year-old stepson's privacy by secretly viewing him through the window into his bedroom. Respondent pled no contest to a misdemeanor charge of peeking through a private area. (Pen. Code, § 647, subd. (j)(1).) Upon finality of the conviction, the review department issued an order referring this matter to the hearing department for a hearing and decision recommending the discipline to be imposed if the facts and circumstances surrounding the violation involved moral turpitude or other misconduct warranting discipline.

The court concludes that the facts surrounding respondent's conviction involved moral turpitude warranting discipline because his acts were "a serious breach of a duty owed to another

¹ Unless otherwise indicated, all references to rules refer to the State Bar Rules of Professional Conduct. Furthermore, all statutory references are to the Business and Professions Code, unless otherwise indicated.

or to society, or such a flagrant disrespect for the law or for societal norms, that knowledge of the attorney's conduct would be likely to undermine public confidence in and respect for the legal profession." (*In re Lesansky* (2001) 25 Cal.4th 11, 16.) Therefore, the court recommends that respondent be disbarred from the practice of law.

Significant Procedural History

Respondent pled no contest to one count of a violation of Penal Code section 647, subdivision (j)(1). This conviction was referred to the hearing department by a Supplemental Transmittal of Records of Conviction of Attorney, filed on July 11, 2013. On August 1, 2013, the review department of the State Bar Court issued an order referring the matter to the hearing department for a hearing and decision recommending the discipline to be imposed in the event that the hearing department finds that the facts and circumstances surrounding the offense for which respondent was convicted involved moral turpitude or other misconduct warranting discipline. (Bus. & Prof. Code, § 6102; Rules Proc. of State Bar, rule 5.340 et seq.)

On August 6, 2013, the State Bar Court issued and properly served a notice of hearing on conviction on respondent. Respondent filed a response on August 26, 2013. (Rules Proc. of State Bar, rule 5.345.)

The April 11, 2014 motion filed by the Office of the Chief Trial Counsel of the State Bar of California (State Bar) for an order excluding withheld discovery items is hereby denied as moot.

The parties filed a stipulation as to facts on April 25, 2014.

A three-day trial was held on April 25, May 2, and June 2, 2014. Senior Trial Counsel Anthony Garcia and Contract Attorney Melissa R. Marshall represented the State Bar. Attorney Edward O. Lear of Century Law Group LLP represented respondent.

The matter was submitted for decision on June 3, 2014.

Findings of Fact and Conclusions of Law

Respondent was admitted to the practice of law in California on December 1, 2000, and has been a member of the State Bar of California at all times since that date.

For purposes of attorney discipline, respondent's conviction proves his guilt of all requisite elements of his crime. (Bus. & Prof. Code, § 6101, subd. (a); *In re Crooks* (1990) 51 Cal.3d 1090, 1097.)

Findings of Fact

1. Facts and Circumstances Surrounding Respondent's Conviction

Respondent and Patrice met in 2001 while both were employees of Sony. Respondent worked in California. In 2004, Patrice's husband died. She worked at a Sony office that was outside of California, but was about to be transferred to California. In about 2005, she spoke with respondent about her transfer, and he invited her over to his house in California for dinner. Patrice and respondent started dating. Eventually, they bought a house together, and moved in with her children in around October 2006. Patrice and respondent married in July 2007. At that time, Patrice had three children: Rob, who was 16 years old; and twins Kate and Steven, who were 13. Respondent had shared custody of his three children, who lived part of the time with respondent, Patrice, and her children as a blended family.

In 2008, shortly after the families moved in together, respondent surreptitiously installed small "spy" cameras in the room occupied by Rob. He did so for the admitted sexual purpose of watching him masturbate. One camera was installed over the shower and the other above a sleeping loft. About two months after they were installed, Rob discovered the cameras and asked his mother and respondent about them. Respondent pretended not to know what they were and why they were there. He and Rob removed the cameras and the wiring. Respondent told

Rob that he thought it might have been something that the former owner of the house had installed. Respondent immediately disposed of the cameras and wiring while Patrice was on a business trip.

Respondent continued to deny that he had installed the cameras up until 2010. Patrice suspected he was not telling the truth, however, and between 2008 and 2010, demanded that he go to counselling. They both agreed to attend counselling and made an appointment for May 10, 2010. Patrice came home one evening and found respondent looking at pornography on his computer.² She confronted him again with the possibility that this was video taken by the cameras he had removed. He again denied that was the case.

The day before the scheduled counselling appointment, respondent finally told Patrice that, in fact, he had installed the cameras and explained his purpose in doing so. He advised her, however, that he had never gotten the cameras to work. Immediately, she told him he had to leave the house. He moved into a guest apartment on the property. Respondent agreed to get counselling and made arrangements to attend Sex Addicts Anonymous. Patrice and respondent agreed to certain rules contained in a September 1, 2010 email from respondent to Patrice. These rules restricted his visits to the main house at certain hours and for certain purposes. After a short period of time, he moved into an apartment off the property, and then, back into the main house and he and Patrice again lived together, subject to the rules they had agreed upon. After Rob left in fall 2009 to go to college, respondent's son Aiden and Steven moved into Rob's former room. A year later, Aiden left for college, and Steven occupied the room alone.

² At trial, Patrice testified that she thought that the pornography he was viewing may have involved a shower scene. However, there was no clear and convincing evidence that this was the case. Respondent immediately deleted the video and it was not offered into evidence in this matter.

2. The Criminal Misconduct

On May 30, 2012, at approximately 10:00-10:30 p.m., respondent and Steven, who was 18 years old at the time, were watching television. Patrice was in charge of the high school's Grad Night party in the high school gymnasium and had been working very hard on the project, so she was very tired and had already gone to bed. Steven went to his bedroom to take a shower. He took off his pants, sat on his bed wearing boxer shorts, and was looking at his telephone. He intended to briefly study that night for his high school final examinations.

Kate was studying for a calculus final examination and heard the front door open. Afraid that their cat would get out through the open door, she went to close it. Kate observed respondent looking into the Steven's bedroom from outside his window. Kate went back into the house, knocked on Steven's door and informed him that respondent was outside his French door window watching him. Upon being alerted to respondent's presence outside his room, Steven went to the French door and opened it. Steven saw respondent walk into the house through the front door. Steven and Kate looked for respondent, but they were unable to locate him. They thought that he was outside near the side yard, however, because they saw the motion detector light go on.

When respondent returned to the house, Steven confronted him in the kitchen of their home. Respondent stated "I fucked up" and "I don't know what was happening." Respondent told Steven that he was sorry. Respondent immediately woke up Patrice and told her what had happened and he again stated that he had "fucked up" and repeatedly stated that he was sorry. She told him to go to the guest house for the night. Thereafter, she, Steven and Kate had a long, tearful discussion about what had just happened.

Respondent expressed remorse for his actions in an email to his wife dated May 31, 2010. In this email, he did not express any other possible reason for looking into Steven's room other than to see Steven for sexual purposes. He noted that "[t]wo years ago I believed that I could change and I worked really hard at changing...I really thought I had conquered (sic) this demon. ...I still want to heal this shit that is inside me that has once again raised its ugly head and ruined everything. But this time, I think I will have to do it alone...I hope as life plays out, you can find happiness and peace. The best I can offer you right now is comfort that you do not need to worry about your kids anymore."

After the Grad Night party, Patrice and Steven called the police and reported respondent's conduct. The police officer arrived and advised them to get a restraining order. The report arising out of this incident contained facts concerning the earlier camera incident with Rob.

Steven filed a request for a restraining order and respondent opposed it. In his declaration dated June 21, 2012, in support of his opposition, he stated no reason for looking into Steven's room. Rather, he stated, "I own the home and have a right to be on this patio."

As part of respondent's therapy after the incident with Steven, respondent wrote an autobiography, describing the facts that led up to respondent's patterns of behavior.

3. Conviction

On December 13, 2012, the San Diego City Attorney filed a criminal complaint in the San Diego County Superior Court, case No. M160093SC, charging respondent with one count of violation of Penal Code section 647, subdivision (j)(1) [peeking through a private area], a misdemeanor.

On March 4, 2013, the court accepted respondent's plea of no contest to the count of violation of Penal Code section 647, subdivision (j)(1), and based thereon, the court found respondent guilty of that count.

On March 4, 2013, the court suspended the imposition of sentence and placed respondent on summary probation for three years. The court ordered that respondent, among other things, enroll in and complete special offender conditions with the length of counseling being determined by the counselor, stay 100 yards away from the victim, violate no laws, commit no same or similar violations, pay a fine of \$267, pay a probation revocation restitution fine in the amount of \$140 in the event of a future probation violation, pay restitution to the victim in an amount to be determined, and serve one day in custody to be satisfied by book and release with the Sheriff.

Conclusion of Law

In light of the foregoing facts, the issue before the court is whether the facts and circumstances surrounding respondent's conviction involved moral turpitude or other misconduct warranting discipline.

"Criminal conduct not committed in the practice of law or against a client reveals moral turpitude if it shows a deficiency in any character trait necessary for the practice of law (such as trustworthiness, honesty, fairness, candor, and fidelity to fiduciary duties) or if it involves such a serious breach of a duty owed to another or to society, or such a flagrant disrespect for the law or for societal norms, that knowledge of the attorney's conduct would be likely to undermine public confidence in and respect for the legal profession. [Citations.]" (*In re Lesansky* (2001) 25 Cal.4th 11, 16.)

The term moral turpitude is defined broadly. (*Baker v. State Bar* (1989) 49 Cal.3d 804, 815, fn. 3.) An act of moral turpitude is any "act of baseness, vileness or depravity in the private

and social duties which a man owes to his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty.” (*In re Craig* (1938) 12 Cal.2d 93, 97.) “It is measured by the morals of the day [citation] and may vary according to the community or the times. [Citation.]” (*In the Matter of Anderson* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208, 214.)

The court finds that respondent's misconduct and the facts and circumstances surrounding the conviction involved moral turpitude.

In this proceeding, respondent continued to argue that he advised Patrice after he was found outside Steven’s door that he was not looking in for any sexual purpose. Rather, he testified that his purpose in looking in Steven’s room was to see if he was drinking alcohol. Respondent stated that he thought Steven was “stockpiling” wine or beer. In support of these assertions, he produced a “tweet” from Steven’s twitter account, where Steven wrote “idk if I can trust myself drinking at your house anymore. #allregrets”³

Respondent had many opportunities to make this claim at or near the time of the incident and he did not. In fact, all of his statements reflected above were assertions exactly to the contrary. Multiple times he stated that he “fucked up,” referring to his promise not to violate the rules he and Patrice had established. When he went to wake up Patrice and tell her, he did not advise her that he was looking for evidence of alcohol. His May 31, 2010 email made no mention of drinking, but rather reflected what seemed to be heart-felt remorse for his conduct, blaming his behavior on “unconquered demons” and explaining that his tendency “has once again raised its ugly head and ruined everything.” He then advised Patrice that the best he can offer is “comfort that you do not need to worry about your kids anymore.” This email would

³ Apparently, respondent was able to access Steven’s twitter account without his knowledge.

have been an appropriate time to explain that the behavior was not, in fact, caused by his “demons” but by his concern about Steven’s underage alcohol use. This he did not do.

Finally, respondent failed to include the explanation involving the alcohol in his autobiography prepared as part of his therapy.

Respondent’s failure to raise this explanation for his misconduct at appropriate times earlier compels this court to find that the claimed search for alcohol was simply an untrue, after-the-fact explanation of his presence in the patio outside Steven’s window. Therefore, the court finds that respondent’s testimony about his “real” purpose for looking in Steven’s window - his search for alcohol - lacks credibility.

In sum, the court finds respondent's arguments without merit or credibility.

Moreover, respondent had attempted to commit similar acts with respect to this victim’s older brother, involving the placement of cameras in his stepson’s bedroom in order to view him masturbating. This earlier conduct did not result in criminal charges being brought. In both cases he lied; in the first case, about his involvement by denying he had placed the cameras; and in this case, about his purpose in viewing the stepson’s room. In this case, the court considered the prior case, involving the placement of cameras, after a ruling that Evidence Code section 1101(b) permitted the evidence to be received to show motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident in examining the credibility of his explanation for viewing his stepson’s room. After considering his credibility, the court finds that the current misconduct and the facts and circumstances surrounding respondent's peeking through a private area conviction involved moral turpitude.

Respondent's deceitful misconduct was "vile" and demonstrated a flagrant disregard for the law and societal norms. The young men had a reasonable expectation of privacy while they were in the bathroom and in the bedroom. Yet, respondent consciously and repeatedly placed

himself in a position to violate their privacy rights. In the first 2008 incident, when he was confronted by his family, he denied that he had placed the cameras in the house. Instead, he blamed the previous homeowner as the culprit. In the second 2012 incident, even after his conviction, he claimed that he was looking into his stepson's bedroom to see if the 18-year-old victim possessed any alcohol, not for sexual gratification. Such assertion of paternal concerns is incredulous and an affront to parenting. Indeed, his overall misconduct demonstrates a refusal to take responsibility for his criminal act and a disregard for the law.

Aggravation⁴

Multiple Acts (Std. 1.5(b).)

Respondent victimized his two stepsons on separate occasions in 2008 and 2012. Such intrusive invasion of privacy was followed by dishonesty and concealment. These multiple and similar acts of misconduct merit significant weight in aggravation.

Intentional Misconduct, Bad Faith, Concealment, Dishonesty, Overreaching or Other Uncharged Violations of the Business and Professions Code/Rules of Professional Conduct (Std. 1.5(d).)

Since the court has determined that respondent's misconduct involved moral turpitude, based on his deception in surreptitiously photographing his stepsons and his false statements to the family, no additional aggravating factor of bad faith or dishonesty is found here.

Harm to Client/Public/Administration of Justice (Std. 1.5(f).)

Respondent admitted that his actions caused harm to the entire family. The victims were particularly vulnerable as they reasonably expected privacy while showering and undressing. Respondent intentionally violated their rights to privacy. The stepsons, stepdaughter, and his ex-wife submitted written, impact statements setting forth the nature and extent of that harm and the

⁴ All further references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

manner in which respondent's conduct caused the harm. (Rules Proc. of State Bar, rule 5.107.) They also testified at this proceeding to their emotional difficulties caused by respondent's vile acts.

Steven, the younger stepson, wrote: "I ... still make sure the window blinds are always closed tight, with the fear of someone watching He is a sick man who will continue to harm other families if he is not stopped."

Rob, the older stepson, wrote: "In looking back at all the events that took place between my family and Andrew Quinn, it is very clear to me that all of his actions and decisions were done so from a predatory perspective. He saw our family as a vulnerable one and one with two young adult men He took us kids on individual trips to foreign countries to try and have us alone with him and to build trust Eventually I uncovered a camera hidden in my bathroom shower I asked him if this was his doing and he lied to my face, a lie which he stood by for months. ... I hope that ... when we raise our own children and have to entrust other men to watch our kids at times without thinking there are predatory motives behind their actions."

Kate, the stepdaughter, wrote: "I caught him in May 2012 peeping on my other brother ... through the window He had told us that he was ashamed and embarrassed of what he had just done. Now that it has been one year and 4 months, Mr. Quinn has changed his story in order to avoid public embarrassment, similar to the embarrassment that our family has felt since this all occurred.... During this past year I had seen my mom in the worst stages of her life. I can never erase seeing so much pain in her eyes from the humiliation and exhaustion that this man has caused her. Because of his horrendous actions, I can only hope that my mom will be able to trust another man around her children.... I hope that you can see the damage that this man has caused our family ... the distress that our family has been through."

Finally, Patrice, the mother of the children, wrote: "Andrew Quinn should be in jail for what he has done to my children.... Andrew had ... installed ... cameras into my 16 year [old son's] shower and bed loft which was discovered 8 months after our marriage.... My son Rob was freaking out that day when he saw the light of the camera while taking a shower, he was shaking. ... [Andrew] has made my life hell. He is a bully and has been in denial with what he has done.... For the first time in my life I have been on medication for anxiety and stress due to what this man has done to my children and [me].... This isn't a man that cashed a bad check ... this is a man that premeditated sexual advances toward my children and got caught.... The scars run deep."

Lack of Candor/Cooperation to Victims/State Bar (Std. 1.5(h.))

Respondent displayed a lack of candor during these proceedings. In an attempt to diminish his misconduct, he continued to argue that he was spying on his stepson to see if the 18-year-old was drinking or had possession of alcohol. In other words, respondent reasoned that he committed a criminal act for the benefit of the victim. At the same time, he asserted that his actions were a "momentary lapse in judgment." It is unclear whether respondent is arguing that he should have sought other means to find out whether his stepson was consuming alcohol or whether he had failed to control his deviant impulse to spy on the young man. Nevertheless, the court rejects his arguments and finds that his dishonesty is a considerable aggravating factor.

Mitigation

No Prior Record (Std. 1.6(a).)

Respondent's lack of a prior record of discipline in his combined 20 years of practice in California and Maryland is considered a mitigating circumstance. (*Brockway v. State Bar* (1991) 53 Cal.3d 51, 66.)

Extreme Emotional/Physical/Mental Difficulties (Std. 1.6(d).)

Respondent presented the testimony of Francisco Gomez, Ph.D., an expert in the treatment of mental disorders associated with sex offenses. Dr. Gomez performed a standard forensic evaluation, including a history and physical examination involving the charged incident and his prior actions regarding the cameras in Rob's room. He concluded in his report that respondent does meet the criteria for pedophilia or any other paraphilia, and has a low risk of reoffending. However, Dr. Gomez opined that respondent is not completely cured of his problems, since he needs to continue to be supervised in his relationships with adolescent males. Further, the testimony of Dr. Gomez was unclear, in that he confused the camera incident with Rob and the instant conviction matter. As such, given the medical evidence presented and the lack of clear and convincing evidence that respondent no longer suffers from such difficulties or that he has rehabilitated, the court assigns only limited mitigation to his emotional difficulties.

Candor/Cooperation to Victims/State Bar (Std. 1. 6(e).)

Respondent's cooperation with the State Bar in stipulating to the facts is entitled to only nominal weight where the stipulated facts were easily provable. (*In the Matter of Bouyer* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 888.)

Good Character (Std. 1.6(f).)

Respondent was described by his stepchildren as a good provider, despite their other criticisms of his behavior. He was active in Steven's youth and coached his basketball team. He also took Steven on a vacation for nine days to Australia. During these interactions, no inappropriate behavior was reported. Respondent also was active in Cub Scouts with his oldest son, starting when his son was six years old. He acted as Den Leader in Cub Scouts, then remained active when his son moved on to Boy Scouts, and his younger son commenced his participation in Cub Scouts.

Respondent has contributed to the community, by acting as a member of the Board of Directors for a local children's choir in San Diego. His primary role was to provide pro bono legal assistance and fund raising to the organization. He did not work directly with the children in the choir.

Respondent presented several declarations attesting to his good character. Three of these declarations were from lawyers, who have a special interest in assuring the high moral character of the Bar. Others were from a Pastor and a computer programmer. Although the attorneys and the Pastor have only known respondent for between two and three and one-half years, David Scott Johnson, the computer programmer, has known respondent for 15 years. These witnesses wrote favorably regarding his traits of honesty and integrity, his community spirit, as well as his openness, professionalism, and ethics. All were aware of the extent of his misconduct and, nevertheless, supported him in this proceeding.

The court assigns significant weight in mitigation to respondent's favorable character evidence.

Remorse/Recognition of Wrongdoing (Std. 1.6(g).)

Respondent's May 31, 2012 email appears to show significant remorse for his actions. However, any mitigating impact of this email is diminished by the assertions prior to and during trial that he was not looking in Steven's room for the purpose of sexual gratification, but rather to inspect for Steven's use of alcohol. This assertion is contrary to every inference that may be drawn from the statements made to family members within minutes of the conduct, the email, and the autobiography. As noted above, the court does not find that respondent was credible in his stated reason for looking – to check for alcohol.

Moreover, in June 2012, shortly after his criminal act, in his opposition to Steven's request for restraining order against him, respondent declared under penalty of perjury that the

"alleged incident on May 30, 2012 ... [involved] me standing on a patio outside of [Steven's] window... I own the home and have the right to be on this patio... I was in no way attempting to 'watch [Steven] undress or shower.' In fact, at the time of this incident, [Steven] was clothed and sitting on a sofa in his bedroom."

Respondent contends that he has expressed his remorse for violating his family's boundaries, for losing their trust, and for causing them pain. But an attorney's misconduct is mitigated for "prompt objective steps, demonstrating spontaneous remorse and recognition of the wrongdoing and timely atonement." (Standard 1.6 (g).) Respondent's remorse did not result in objective steps promptly taken by him to atone for his misconduct. Rather, he fought against the restraining order and defended his criminal act by claiming that he had the right to be on the patio in front of Steven's bedroom and that, as a side note, Steven was simply sitting on a sofa. In other word, he peeked but there was nothing to see.

"[E]xpressing remorse for one's misconduct is an elementary moral precept which, standing alone, deserves no special consideration in determining the appropriate discipline." (*Hipolito v. State Bar* (1989) 48 Cal.3d 621, 627, fn. 2.) Thus, respondent's May 2012 email standing alone has no mitigating value.

As such, the court assigns no mitigation for remorse or recognition of wrongdoing.

Discussion

The purpose of State Bar disciplinary proceedings is not to punish the attorney but to protect the public, the courts, and the legal profession; to maintain the highest possible professional standards for attorneys; and to preserve public confidence in the legal profession. (Std. 1.1; *Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate level of discipline, the court looks first to the standards for guidance. (*Drociak v. State Bar* (1991) 52 Cal.3d 1095, 1090; *In the Matter of Koehler* (Review

Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615, 628.) The Supreme Court gives the standards “great weight” and will reject a recommendation consistent with the standards only where the court entertains “grave doubts” as to its propriety. (*In re Silvertown* (2005) 36 Cal.4th 81, 91-92; *In re Naney* (1990) 51 Cal.3d 186, 190.) Although the standards are not mandatory, they may be deviated from when there is a compelling, well-defined reason to do so. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1061, fn. 2; *Aronin v. State Bar* (1990) 52 Cal.3d 276, 291.)

Standard 1.7(a) provides that, when a member commits two or more acts of misconduct and the standards specify different sanctions for each act, the most severe sanction must be imposed.

However, standard 1.7(b) provides that if aggravating circumstances are found, they should be considered alone and in balance with any mitigating circumstances, and if the net effect demonstrates that a greater sanction is needed to fulfill the primary purposes of discipline, it is appropriate to impose or recommend a greater sanction than what is otherwise specified in a given standard. On balance, a greater sanction is appropriate in cases where there is serious harm to the client, the public, the legal system, or the profession and where the record demonstrates that the member is unwilling or unable to conform to ethical responsibilities in the future.

Standard 2.11(c) provides that actual suspension or disbarment is appropriate for a final conviction of a misdemeanor involving moral turpitude. (Bus. & Prof. Code, § 6101, subd. (a).)

Respondent argues that his misconduct did not involve moral turpitude, reiterating that his intent for looking into his stepson's bedroom window was to observe whether his stepson was engaging in underage alcohol use. Thus, he contends that the appropriate level of discipline is suspension or reproof under standard 2.12(b), citing, among others, in support of his argument, *In the Matter of Stewart* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 52 [60 days' actual

suspension for misdemeanor battery on a police officer] and *In the Matter of Anderson* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208 [60 days' actual suspension for three drunk driving convictions].

Respondent further asserts that even if his conviction involved moral turpitude, an actual suspension of one year is adequate. In support of his contention, he cited *In the Matter of Buckley* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 201 [public reproof for solicitation of a lewd act in a public place] and *In re Safran* (1976) 18 Cal.3d 134 [three years' stayed suspension for annoying or molesting a child under 18].

The State Bar urges that disbarment is warranted, contending that respondent's conviction was a serious breach of the duty of respect and care that all adults owe to all children and that invading the privacy of one's own family member for personal sexual gratification is a grievous violation of the most basic social duties man owes to his fellowmen. Not only did his conviction involve moral turpitude, but also, respondent lied to this court while under oath. He continued to deny that sexual gratification was his motive.

Standard 2.11(c)⁵ “guides strongly to disbarment for crimes which involve moral turpitude.” (*In the Matter of Oheb* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920, 941 [disbarment for capping and fee splitting.) “[D]isbarments, and not suspensions, have been the rule rather than the exception in cases of serious crimes involving moral turpitude.” (*In re Crooks* (1990) 51 Cal.3d 1090, 1101.)

In *In the Matter of Lybbert* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 297, an attorney was actually suspended for two years for a conviction of welfare fraud of about \$10,240, a misdemeanor involving moral turpitude, in order to feed his nine minor children. The attorney in *Lybbert* had defrauded the government for the sake of providing for his children.

⁵ Standard 2.11(c) replaced former standard 3.2, effective January 1, 2014.

Here, respondent had victimized his stepchildren for his own sexual gratification, which is clearly more reprehensible than that of *Lybbert*.

In a recent Supreme Court case, *In re Grant* (2014) 58 Cal.4th 469, the attorney was disbarred for felonious possession or control of child pornography. The Supreme Court found that such a crime involves moral turpitude per se, noting that "in attorney discipline cases, moral turpitude should be defined with the aim of protecting the public, promoting confidence in the legal system, and maintaining high professional standards. [Citation.]" (*Id.* at p. 476.)

Respondent's conviction of peeking through a private area is an unsettling threat to human dignity and the right to privacy. But his misconduct is not limited to his grievous criminal conduct – he was dishonest with his family and this court about his motive. Moreover, he had previously engaged in similar deviant behavior and denied it for at least two years. Thus, his criminal conduct was not aberrational. "[D]ishonest conduct is inimical to both the high ethical standards of honesty and integrity required of members of the legal profession and to promoting confidence in the trustworthiness of members of the profession. [Citations.]" (*Stanley v. State Bar* (1990) 50 Cal.3d 555, 567.)

Like the attorney in *Grant*, respondent's "attempt to recast his behavior is inconsistent with his guilty plea." (*In re Grant, supra*, 58 Cal.4th at p. 479.) His signed plea form admitted that he "looked through a window with the intent to invade the privacy of the person inside." The criminal court ordered respondent to complete special offender conditions with counseling and staying 100 yards away from the victim. Such probation conditions do not support his noble claim of being a protective parent.

The purpose of discipline is not to seek redress or compensate those who are harmed. It is but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. The Supreme Court noted that "the degree

of discipline must correspond to some reasonable degree with the gravity of the misconduct." (*In re Strick* (1987) 43 Cal.3d 644, 656.) In this matter, imposing a period of two years' actual suspension, as in *Lybbert*, is insufficient to fulfill the goals of attorney discipline under the facts and circumstances surrounding respondent's criminal offense and absent any compelling mitigating circumstances. Although his crime was not directly related to the practice of law, the facts and circumstances surrounding his voyeurism did involve deceit, concealment, and lack of trustworthiness, which reflects a "disregard of the fundamental rule of ethics – that of common honesty – without which the [legal] profession is worse than valueless in the place it holds in the administration of justice." (*Borré v. State Bar* (1991) 52 Cal.3d 1047, 1053.)

Based on the facts of this case, anything short of disbarment would be likely to undermine public's confidence in and respect for the legal profession. Accordingly, disbarment is the only appropriate disposition under standard 2.11(c).

Recommendations

It is recommended that respondent Andrew William Quinn, State Bar No. 209654, be disbarred from the practice of law in California and respondent's name be stricken from the roll of attorneys.

California Rules of Court, Rule 9.20

It is further recommended that respondent comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.

Costs

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Order of Involuntary Inactive Enrollment

Respondent is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the State Bar Rules of Procedure, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Dated: September ____, 2014

RICHARD A. HONN
Judge of the State Bar Court